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September 5, 2003

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Marlene H Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte in CC Docket Nos: 00-256, 96-45, 98-77, and 98-166

Dear Ms. Dortch:

On September 4, 2003, David Bartlett of ALLTEL Communications, Inc., Michael Skrivan of Madison River Communications LLC, and Robert DeBroux of TDS Telecommunications Corporation (collectively referred to as the "Company Representatives"), met with Jessica Rosenworcel, Legal Advisor to Commissioner Copps, Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, and Scott Bergman, Legal Counsel to William Maher, Wireline Competition Bureau, on behalf of Commissioner Adelstein's office, to discuss their Rate-of-Return Company Tariff Option proposal.

The Company Representatives have met previously with Commission Staff and other parties to discuss their collective efforts with respect to the development of an alternative regulatory structure contemplated by the MAG *Further Notice of Proposed Rulemaking*.¹ These discussions were a reiteration of how the proposal would function and the benefits it would produce. These positions have previously been placed in the record in this proceeding.

The Company Representatives also emphasized that the concept of their proposal has already been discussed in the record in the context of the *Further Notice*. Therefore, no impediments exist to adopting the changes proposed in the Rate-of-Return Company Tariff Option in the further MAG order. The attached documents were provided and referred to in the course of the discussions.

Respectfully submitted,

/s/

Sylvia Lesse

Attachments

cc. Jessica Rosenworcel
Matthew Brill
Scott Bergman

¹ *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifteenth Report and Order, *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Report and Order, *Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers*, CC Docket No. 98-166, Report and Order, 66 Fed. Reg. 59719, FCC 01-304 (rel. Nov. 8, 2001)

ALLTEL Communications Inc.
Madison River Communications
TDS Telecommunications Corporation

Why we are here

- Close the loop on filed interstate incentive option for rate-of-return companies
- Introduced concept of tariff option providing incentive-type regulation for rate of return companies with 5th floor on Jan 24, 2003. Were directed to visit 8th floor for reaction to plan
- Visited with all five legal assistants in early March (4th & 11th), reviewed plan, and changed scope of plan from "rural" to "rate-of-return" based on 8th floor feedback
- Met with 5th floor on feedback, and were told "order was in the works," and that the pending order could include our plan if supported by 8th floor
- Met with rural telephone associations, as plan expands incentive option for their members

What is our plan

- 61.39 tariff option allows rates to be set based on historical data, and subsequently reset every two years
- Plan essentially detailed by NRTA, OPASTCO & USTA Comments to MAG order

What are the benefits of our plan

- Promotes development of new services, such as broadband
- Promotes increased efficiency
- Complements state incentive plans
- Updates rules to comply with MAG order for common line
- Works in NECA pooling environment

What we are looking for today

- Feedback on viability of ordering plan in further MAG order

Introduction

- Midsize Companies have no viable incentive option.
- Midsize Companies have study areas that could benefit from incentive regulation.
- Incentive regulation is in the public interest, benefiting LECs and their customers.
- Existing rate-of-return tariff options can be built upon to extend incentive-type regulation to midsize carriers.

Part 61.39 Plan for Midsize Carriers

Current rules

- 61.39 is a lag-based incentive plan for Subset III study areas with less than 50,000 access lines, which uses historical costs and demand to establish rates.
- 61.39 regulation can be elected independently for Traffic Sensitive and/or Common Line rates

Rate-of-Return Carrier Tariff Option

- Extend 61.39 to all non-price cap rural carriers.
- Avoid changes that would impact use of plan by small companies.
- Retain current 61.39 optionality.

Traffic Sensitive Portion of the Plan

- Rates set per current rules.

Common Line Portion

- Current rules do not work due to MAG Common Line restructuring, because 61.39 requires residual revenue requirement to be recovered through CCL rates.
- Proposed rule revision would allow residual Common Line revenue requirement to be recovered through ICLS.
- Per-line ICLS/LTS settlement would be established based on historical costs and demand.

Other Issues

- HCL, USF and LSS could continue to be paid under existing rules.
- Companies would be free to elect Traffic Sensitive, Common Line, or both, by study area
- Resetting rates every two years provides protection to LECs and benefits to IXC's
- Plan is workable in the NECA Pooling environment.